

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No.: 3:21-cv-00314-RCJ-CSD

Order

Re: ECF Nos. 3, 4

JOSE CERDA GODINEZ,

Plaintiff

v.

BRIAN SANDOVAL, et al.,

Defendants

Plaintiff, who is a prisoner in custody of the Nevada Department of Corrections, has filed an application to proceed in forma pauperis (IFP) and civil rights complaint pursuant to 42 U.S.C. § 1983. (ECF Nos. 1, 1-1 .)

District Judge Jones screened Plaintiff's complaint and allowed him to proceed with an Eighth Amendment excessive force and failure to intervene in excessive force claim against defendants Edwards, Johnson, Weiland, Kleer, Rigney, and Guzman, based on an alleged incident of excessive force on January 29, 2021. Plaintiff was also allowed to proceed with an Eighth Amendment deliberate indifference to serious medical needs claim against Jane Doe # 1 (when he identifies her), based on allegations that she knew of Plaintiff's injuries, but failed to provide him with medical treatment despite his requests. (ECF No. 6.)

Plaintiff has filed a motion for temporary restraining order and preliminary injunction. He seeks an order for his transfer to a medical yard for examination and treatment for his hand injury stemming from the excessive force incident. Plaintiff also states that since the incident, he has been retaliated against in the form of verbal harassment, false write ups, and cell searches. He asks for a transfer to stop this ongoing alleged retaliation. (ECF Nos. 3, 4.)

1 In seeking injunctive relief, "there must be a relationship between the injury claimed in
2 the motion for injunctive relief and the conduct asserted in the underlying complaint." *Pacific*
3 *Radiation Oncology, LLC v. Queen's Medical Center*, 810 F.3d 631, 636 (9th Cir. 2015). "This
4 requires a sufficient nexus between the claims raised in a motion for injunctive relief and the
5 claims set forth in the underlying complaint itself." *Id.* "The relationship between the preliminary
6 injunction and the underlying complaint is sufficiently strong where the preliminary injunction
7 would grant 'relief of the same character as that which may be granted finally.'" *Id.* (quoting *De*
8 *Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945)). "Absent that relationship or
9 nexus, the district court lacks authority to grant the relief requested." *Id.*

10 "Though new assertions of misconduct might support additional claims against a
11 defendant, they do not support preliminary injunctions entirely unrelated to the conduct asserted
12 in the underlying complaint." *Id.* at 636 (citing *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir.
13 1994)).

14 Plaintiff's request for a transfer to receive medical care for his hand injury is related to
15 both his excessive force and deliberate indifference claims. On the other hand, Plaintiff does not
16 have any retaliation claims proceeding in this case, and the relief requested (transfer to stop
17 retaliation) is not the relief that may be granted finally in this case. Therefore, the court will be
18 recommending that aspect of Plaintiff's motion for temporary restraining order and preliminary
19 injunction be denied. The court will ask for further briefing regarding Plaintiff's request for
20 transfer to receive medical treatment for his hand.

21 Within **14 days** of the date of this Order, the Attorney General's Office shall advise the
22 court whether it will enter a limited notice of appearance on behalf of Defendants for the purpose
23 of responding to Plaintiff's motion for temporary restraining order and preliminary injunction

1 insofar as Plaintiff requests transfer and treatment for his hand. If the Attorney General's Office
2 is willing to enter a limited notice of appearance, then also within **14 days** of the date of this
3 Order, the Attorney General's Office shall file a response to Plaintiff's motion. Again, the
4 response shall address only Plaintiff's request for transfer for medical treatment of his hand. The
5 Attorney General's Office shall file under seal any **relevant** medical records. Plaintiff may kite
6 the warden's office to review any records filed under seal, and the Attorney General's Office
7 shall ensure that Plaintiff is given a reasonable amount of time to review these records. Plaintiff
8 will have **seven days** from the date he receives the response to file a reply brief. The court will
9 then determine whether to hold a hearing.

10 The Clerk of Court shall electronically serve a copy of this Order, a copy of Plaintiff's
11 complaint (ECF No. 7), a copy of the order screening the complaint (ECF No. 6), as well as a
12 copy of Plaintiff's motion for temporary restraining order and preliminary injunction
13 (ECF Nos. 3, 4) on the Nevada Attorney General's Office by adding the Nevada Attorney
14 General's Office to the docket sheet. This will not constitute a general appearance.

15 The parties are advised that there is still a stay entered in this case while they participate
16 in the court's early mediation program. As such, the parties shall not file any other documents
17 with the court while the stay is in place except for the briefing as directed in this Order.

18 **IT IS SO ORDERED.**

19 Dated: February 2, 2022

20 
21 Craig S. Denney
22 United States Magistrate Judge
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